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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,394	12/02/2004	Koichi Iida	59243.00011	5059
32294 7590 09/15/2008 SQUIRE, SANDERS & DEMPSEY L.L.P. 8000 TOWERS CRESCENT DRIVE 14TH FLOOR VIENNA, VA 22182-6212				
EXAMINER				
FERTIG, BRIAN E				
ART UNIT		PAPER NUMBER		
3694				
MAIL DATE		DELIVERY MODE		
09/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



# Office Action Summary

**Application No.**

10/516,394

**Applicant(s)**

IIDA ET AL.

**Examiner**

BRIAN FERTIG

**Art Unit**

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_



## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### With respect to claims 1, 4, and 7

These claims recite manes plus function language. This language invokes the rebuttable presumption that applicant seeks treatment under 35 U.S.C. 112, sixth paragraph. Such treatment requires that applicant clearly identify particular structures or steps within the disclosure as the means for or steps for that applicant intends to claim (see MPEP § 2181). No such clear identification has been found, rendering the claim indefinite. For the purposes of examination below, it is assumed that applicant did not intend to invoke treatment under 35 U.S.C. 112, sixth paragraph. As such, recitation of



means for are met by the prior art if the prior art would have been capable of performing the recited means. Applicant is advised to explicitly rebut the presumption that 35 U.S.C. 112, sixth paragraph treatment has been invoked, amend the claims to remove the invoking language, or point out language in the disclosure that clearly identifies the particular structures or steps applicant intends to claim.

Examiner also respectfully directs applicant to MPEP § 2106 discussing the questionable limiting effect of statements of intended use (i.e. certain 'for' clauses) and suggests that positive recitation of how a structure is configured (i.e. "a storage device configured to . . . ") in lieu of a statement of intended use has the potential to remedy issues of indefiniteness. This suggestion is meant as an example only and is not meant to convey allowable subject matter and does not consider whether appropriate support exists in Applicant's specification.

With respect to claims 2-3 and 6

These claims are rejected for incorporating the subject matter rejected above.

***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed to a system comprised of various "means for". When given their broadest reasonable meaning, these "means for" read entirely on software. Software not claimed as embodied in



computer-readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer (see MPEP § 2106.01 for further discussion).

***Claim Rejections - 35 USC § 102***

6. Claims 1-7 rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,226,561 to Tamaki (Tamaki).

With respect to claim 1

Tamaki teaches:

An order management system for managing orders of resources for production of products, configured by a computer having an input device and an image displaying device, comprising:

storage means for storing an order management table indicating an order quantity and a required quantity of resources for each period among a plurality of periods (i.e. data storage unit, see col 9, lines 29-35 and fig 1 and col 10, lines 30-50);

first ordering means for retrieving the required quantity of resources for each period from the storage means, and transmitting first order information indicating the required quantity of resources for each period directly as an order quantity to an order received management terminal via a network (i.e. production plan forming subsystem, see col 14, lines 34-45);



required quantity determination means for retrieving from the storage means, the order management table showing the order quantity of resources for each period indicated as the first order information transmitted by the first ordering means, and for displaying the order management table on the image displaying device (i.e. MRP control unit, see col 14, lines 48-64);

correction means for correcting the required quantities of resources in one or more periods included in a second predetermined period following a first predetermined period by decreasing the required quantities of resources in the second predetermined period following the first predetermined period when the required quantities of resources in one or more periods included in the first predetermined period are increased by a user's operation of the input device, wherein the decreased amount of the required quantities corresponds with the increased amount of the required quantities (i.e. superfluous parts elimination unit, see col 11, lines 18-39); and

second ordering means for determining a latest order quantity of resources in each period included in the first predetermined period to equal the required quantity of resources in each period included in the first period, and for determining a latest order quantity of resources in each period included in the second predetermined period to equal to the required quantity of the resources in each period of the second



predetermined period corrected by the correction means, and then transmitting a second order information indicating the latest order quantity of resources for each period included in each of the first predetermined period and the second predetermined period to the order received management terminal via a network (i.e. parts acquisition system, see col 15, lines 14-30).

With respect to claim 2

Tamaki teaches:

The order management system according to claim 1 (see rejection of claim 1 above), wherein when the required quantity of resources in the periods included in the first predetermined period indicated by the order management table is decreased by a user's operation of the input device, the second ordering means modifies the order quantity of resources in each period included in each of the first predetermined period and the second predetermined period to equal to-the required quantity of resources in each period included in each of the first predetermined period and the second predetermined period, and transmits the second order information to the order received management terminal via a network (see col 14, line 65-col 15, line 13, note that deficient part adjusting unit)

With respect to claim 3

Tamaki teaches:

The order management system according to claim 1 (see rejection of claim 1 above), wherein said second ordering means modifies the placed order



quantities to decrease in order of precedence from the first period among the plurality of periods in the second predetermined period (see col 15, lines 14-30).

With respect to claim 4

Tamaki teaches:

The order management system according to claim 1 (see rejection of claim 1 above), further comprising production plan creation means for creating production plans of products sequentially, wherein said required quantity determination means determines the latest required quantities of resources based on a latest production plan created by the production plan creation means (see col 12, lines 1-7, note the existence of a production plan, fairly suggesting a production plan creation means, see also col 14, lines 48-64).

With respect to claim 6

Tamaki teaches:

The order management system according to claim 1 (see rejection of claim 1 above), wherein the second ordering means determines the latest order quantity of resources in a way that a fluctuation from an entire last time order quantity of resources in the plurality of periods to an entire latest order quantity is not over an upper limit (see col 15, lines 13-31, note that order are places so as to avoid any complete depletion of parts).

With respect to claim 7

Tamaki teaches:



The order management system according to claim 6 (see rejection of claim 6 above), further comprising information acquiring means for acquiring information on a supply capacity of resources of the person receiving the orders from his/her order received management terminal, wherein said second ordering means controls the upper limit on the basis of the information on the supply capacity of resources of the person receiving the orders acquired by the information acquiring means (see col 13, line 63-col 14, line 27, note the teaching of determining a feasible production plan).

#### ***Response to Arguments***

7. Applicant's arguments with respect to claim 1-7 have been considered but are moot in view of the new ground(s) of rejection.
8. With respect to Applicant's argument that the finality of the Office Action dated 3/26/2008 is improper, Examiner respectfully observes that the filing of a Request for Continued Examination has the effect of removing the finality of that Office Action rendering Applicant's argument is moot. The current Application is in a Non-Final status.

#### ***Pertinent Prior Art***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Application 2003/0050826 for Cargille, teaching production planning system with features related to capacity and inventory planning and US Patent Application 2002/0019761 for Lidow, teaching a supply chain with forecasting



features and Avraham Shtub's Book Enterprise Resource Planning, The Dynamics of Operations Management, Kulwer Academic Publishers, 1999, pp 100-112, providing an overview of ERP systems.

***Inquiry***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN FERTIG whose telephone number is (571)270-5131. The examiner can normally be reached on Monday - Friday 8:30am to 5:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



/B.F./

/Mary Cheung/  
Primary Examiner, Art Unit 3694